IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 17524 of 2006

DATE OF DECISION: 7.11.2006

Jasbir Singh ....Petitioner.

Versus

State of Punjab and another ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. Vivek Sharma, Advocate for the petitioner.

**J.S. Khehar, J.** (oral)

The petitioner is a practising Advocate at Sangrur. The grievance of the petitioner is that he applied for appointment against the posts of Assistant District Attorney advertised in March 2001 (Annexure P-1). In the selection process, which was conducted consequent upon the issuance of the advertisement Annexure P1, the petitioner claims to have cleared the written examination. However, the process of selection, based on the aforesaid advertisement, became a subject matter of challenge in this Court in CWP No.2731 of 2002. During the pendency of the aforesaid writ petition, the State Government decided to scrap the process of selection. It is, therefore, that none of the candidates selected in response to the advertisement issued in March 2001 came to be appointed as Assistant District Attorney.

The State Government has now issued yet another

advertisement on 11.9.2006 (Annexure P6), seeking to make appointments against 62 posts of Assistant District Attorney. It is the vehement contention of the learned counsel for the petitioner, that appointments against these posts advertised in 2006 should be made out of the selection process, which came to be finalised consequent upon the issuance of the earlier advertisement, in March 2001. It is not possible for us to accept the instant contention of the learned counsel for the petitioner. Between the years 2001 and 2006 i.e. the period between the first advertisement and the present advertisement, a large number of candidates may have acquired eligibility, and may be desirous of applying for appointment against the posts of Assistant District Attorney. In terms of the mandate of Article 16 of the Constitution of India, each of such desirous candidates has a fundamental right to compete for selection and appointment against the advertised posts. For the aforestated reason, it is not possible for us to accept the first contention of the learned counsel for the petitioner.

The second contention of the learned counsel for the petitioner is, that there is a patent infirmity in the advertisement issued on 11.9.2006, namely, that the advertisement requires candidates to apply for appointment against the post of Assistant District Attorney only in the Sessions Divisions, in which they are practising. In sum and substance, the contention of the learned counsel for the petitioner is, that the petitioner has been precluded by the advertisement dated 11.9.2006 from applying for appointment against the post of Assistant District Attorney in a district other than Sangrur where he is practising. Although the instant contention of the learned counsel for the petitioner is attractive on

first blush, yet, in the facts and circumstances of the present controversy, it is not possible for us to entertain the instant grievance at the hands of the petitioner. A perusal of the advertisement dated 11.9.2006 reveals that the last date for submission of application forms stipulated therein was 25.9.2006. In case the petitioner was desirous to press his claim for selection/appointment against the post of Assistant District Attorney in a district other than district Sangrur, as is his case presently, the petitioner should have approached this Court well before 25.9.2006 to press his claim. In fact, in a number of similar cases, where candidates approached this Court, they were permitted provisionally to participate in the process of selection in the districts of their choice. At this juncture it is not possible for us to entertain the instant prayer of the learned counsel for the petitioner, as the same would upset the entire process of selection. For raising the instant plea to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner should have approached this Court before the last date of submission of application forms i.e. before 25.9.2006.

For the reasons recorded above, we find no merit in this writ petition and the same is, accordingly, dismissed.

( J.S. Khehar )
Judge

( S.D. Anand )
Judge

November 07, 2006.
vig